



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

LCC:ddj
Docket No: 3766-00
8 August 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1430 SER 85/701 of 23 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1430
Ser 85/701
23 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
[REDACTED]

Ref: (a) BUPERSINST 1430.16D

Encl: (1) BCNR file #03766-00

1. Based on policy and guidelines established in reference (a), enclosure (1) is returned recommending disapproval.

2. [REDACTED] states his recommendation for advancement was removed as a result of Commanding Officer's Non-Judicial Punishment on 27 April 1999, in violation of reference (a).

3. Having reviewed Petty Officer [REDACTED] records he was awarded Non-Judicial Punishment on 27 April 1999, as a result he received a reduction in rate to E-3, suspended for 6 months, a forfeiture of pay, restriction and extra duty. Petty Officer [REDACTED] recommendation for advancement was removed as a result of an evaluation dated 30 April 1999. He signed a Page 13 advising him that his recommendation for advancement was withdrawn. The Page 13 is dated 15 June 1999, prior to his advancement, even though Petty Officer [REDACTED] signed this on 28 June 1999 it is clear the command's intent was to withdraw his recommendation for advancement. Petty Officer [REDACTED] indicated he would seek a review of this matter on the Page 13 under article 138 of the Uniform Code of Military Justice. It is recommended that TM3 Simmons seek review under article 138. Therefore, no relief is recommended in this case.

F. L. Cox
F. L. COX
By direction

R601-2R			
99ARP29	USS FRANK CABLE (AS 403		
	NJP	99APR27	21, 92
99APR27	X		
X	LIC-RE		

99APR27: CO'S NJP THIS DATE.
 VUCMJ: ART. 81, CONSPIRACY, AND ART. 92, DERELICTION OF DUTY.
 AWARD: RIR TO E3 (SUSP. X GROSS) FORF. OF \$612.90 PPM X 2 MOS
 (1/2 MONTH SUSP. X GROSS) AND REST./EXTRA DUTY FOR 30
 DAYS.

LN1(SW)
 LN1(SW), USN, BYDIRCO USS FRANK CABLE (AS 403)
 20865 TM3
 USN